

IC 12-23-14.5

Chapter 14.5. Drug Courts

IC 12-23-14.5-1

Authority to establish program

Sec. 1. A court having felony, misdemeanor, or juvenile jurisdiction in a city or county may establish a drug court under the court's operation.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-2

Rules and special orders

Sec. 2. A court establishing a drug court under this chapter may establish uniform rules and may make special orders and rules as necessary.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-3

Individuals eligible

Sec. 3. (a) Except as provided in subsection (b), a drug court established under this chapter and accompanying services are open only to individuals over whom the court that established the drug court has jurisdiction.

(b) A drug court that does not otherwise have felony jurisdiction may accept an eligible individual who is referred to the drug court from another court within the county if the following criteria are met:

(1) The drug court returns the case to the court that made the referral for appropriate proceedings when the person has successfully completed drug court or the person's participation in the drug court has been terminated.

(2) If the drug court is a city or town court, the person selected as judge for the court is required to be an attorney under IC 33-35-5-7.

As added by P.L.168-2002, SEC.8. Amended by P.L.133-2003, SEC.1; P.L.98-2004, SEC.90.

IC 12-23-14.5-4

Range of services provided

Sec. 4. (a) A drug court established under this chapter may provide for eligible individuals a range of necessary intervention services, including the following:

(1) Screening for eligibility and other appropriate services.

(2) Clinical assessment.

(3) Education.

(4) Referral.

(5) Service coordination and case management.

(b) A drug court that is eligible under section 5 of this chapter may also provide treatment and rehabilitation services, including the following:

(1) Emergency services.

- (2) Detoxification.
- (3) Counseling.
- (4) Rehabilitative care.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-5

Direct treatment or rehabilitation services; inadequacy of existing community resources

Sec. 5. A drug court established under this chapter may not provide direct treatment or rehabilitation services unless:

- (1) the drug court is certified by the division; and
- (2) the court that established the drug court determines that existing community resources are inadequate to respond satisfactorily to the demand for the services from the court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-6

Notice of intent to establish drug court; written statement from Indiana judicial center; continued operation of existing drug court

Sec. 6. (a) Except as provided in subsection (c), a court shall notify the Indiana judicial center during the planning stages of the court's intention to establish a drug court.

(b) Before a drug court may begin operation, the court must obtain a written statement from the Indiana judicial center approving the operation of the drug court.

(c) A drug court in operation before July 1, 2002, may continue to operate pending certification if the drug court does the following:

- (1) Before October 2, 2002, notifies the Indiana judicial center of the date the drug court began operation.
- (2) Follows procedures for certification as provided in rules adopted under section 9(d) of this chapter, including submission of an application for certification as required by the rules.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-7

Petition for approval

Sec. 7. In addition to satisfying the requirements of section 6 of this chapter, a court seeking to establish a drug court must submit a petition for approval of the drug court. The petition must contain the following:

- (1) A full description of a proposed drug court.
- (2) Evidence that the court has considered:
 - (A) how to best use services that could be provided by any existing court alcohol and drug services program; and
 - (B) the role that an existing alcohol and drug services program will play in the development and implementation of the drug court.
- (3) A proposed budget for the drug court.
- (4) Details on the implementation of the drug court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-8

Power to carry out functions of the court; hiring employees

Sec. 8. A court may take steps necessary to carry out the functions of the drug court, including hiring employees as needed to perform the required functions of the drug court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-9

Regulatory powers of Indiana judicial center; rules; educational and occupational qualifications; delegation of authority

Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-38-9-3.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for a person employed by a drug court.

(c) A drug court established under this chapter is subject to the regulatory powers of the Indiana judicial center under IC 33-38-9-9.

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

- (1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.
- (2) Certify drug courts established under this chapter.
- (3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.
- (4) Make agreements and contracts with:
 - (A) another department, authority, or agency of the state;
 - (B) another state;
 - (C) the federal government;
 - (D) a state supported or private university; or
 - (E) a public or private agency;

to implement this chapter.

(5) Require as a condition of operation that each drug court created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a drug court; however, any contract service provider must be licensed by the state or approved by the judicial center. If the board adopts qualifications under this subsection:

- (1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications adopted under this subsection; and
- (2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:
 - (A) by a certified drug court before the effective date; or

(B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

As added by P.L.168-2002, SEC.8. Amended by P.L.133-2003, SEC.2; P.L.98-2004, SEC.91.

IC 12-23-14.5-10

Program costs; discretion of fiscal body; compensation of employees

Sec. 10. (a) The costs of a drug court established under this chapter may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.

(b) The court shall fix the compensation of employees of the drug court.

As added by P.L.168-2002, SEC.8. Amended by P.L.98-2004, SEC.92.

IC 12-23-14.5-11

Financial assistance; private and government sources

Sec. 11. A drug court may apply for and receive the following:

- (1) Gifts, bequests, and donations from private sources.
- (2) Grant and contract money from governmental sources.
- (3) Other forms of financial assistance approved by the court to supplement the court's budget.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-12

Fees charged for services; fee schedule; maximum fee; deposit of fees

Sec. 12. (a) A court that has established a drug court under this chapter may require an eligible individual to pay a fee for drug court services.

(b) If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for drug court services.

(c) The fee for drug court services may not exceed five hundred dollars (\$500) per referral to the drug court.

(d) The clerk of the court shall collect fees under this section. The clerk shall transmit the fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.

As added by P.L.168-2002, SEC.8. Amended by P.L.98-2004, SEC.93.

IC 12-23-14.5-13

Indiana judicial center drug court fund

Sec. 13. (a) The Indiana judicial center drug court fund is established for the purpose of administering, certifying, and

supporting drug courts under this chapter. The fund shall be administered by the Indiana judicial center.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-14

Eligibility for participation in a drug court

Sec. 14. (a) A person is eligible to participate in a drug court only if:

- (1) the person meets all criteria established by the drug court;
- (2) the judge approves the admission of the person to the drug court; and
- (3) the offense for which the person is referred to drug court is not any of the following:
 - (A) A forcible felony (as defined in IC 35-41-1-11).
 - (B) Any offense that a local drug court committee agrees to exclude from participation.

The local drug court committee referred to in subdivision (3)(B) must include the drug court judge, the local prosecuting attorney, and a local criminal defense attorney.

(b) If a person is eligible to participate in a drug court, a person may be referred to the drug court as a result of any of the following:

- (1) The procedure described in section 15 of this chapter.
- (2) As a term of probation.
- (3) In response to a violation of a condition of probation.

As added by P.L.168-2002, SEC.8. Amended by P.L.85-2004, SEC.5.

IC 12-23-14.5-15

Withholding judgment of conviction; dismissal of charges

Sec. 15. (a) A drug court may follow the procedure described in this section only if:

- (1) a person pleads guilty to an offense in which the use of alcohol or drugs was a contributing factor or material element of the offense;
- (2) the court refers the person to a drug court;
- (3) the prosecuting attorney consents to the referral;
- (4) the person who pleads guilty under subdivision (1) consents to the referral;
- (5) the person who pleads guilty under subdivision (1) is eligible to participate in the drug court under section 14(b) of this chapter and the drug court accepts the referral; and
- (6) the person has not had a previous dismissal under this section.

(b) Notwithstanding IC 35-38-1-1(a), the court, without entering a judgment of conviction, may defer further proceedings and place the person in a drug court subject to conditions established by the

drug court.

(c) The drug court, the prosecuting attorney, and the participant must all agree upon the duration of the conditions established under subsection (b).

(d) If the drug court determines, after a hearing, that:

- (1) the person violated a condition established under subsection (b); or
- (2) the period of time that the conditions established under subsection (b) were in effect expired before the person successfully completed each condition established by the drug court;

the drug court may terminate the person's participation in the drug court.

(e) When a person's participation in a drug court has been terminated by the drug court under subsection (d), the drug court shall:

- (1) enter a judgment of conviction against the person; or
- (2) refer the case back to the court that referred the case to the drug court to allow the referring court to enter a judgment of conviction against the person.

(f) When a person fulfills the conditions established by a drug court under subsection (b), the drug court shall:

- (1) dismiss the charges against the person; or
- (2) refer the case back to the court that referred the case to the drug court to allow the referring court to dismiss the charges against the person.

As added by P.L.168-2002, SEC.8. Amended by P.L.133-2003, SEC.3.

IC 12-23-14.5-16

Chemical tests; costs; reporting of chemical test results

Sec. 16. (a) As a condition of participation in a drug court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the court. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the court or the laboratory.

(b) A laboratory that performs a chemical test under this section shall report the results of each test to the court.

As added by P.L.168-2002, SEC.8.

IC 12-23-14.5-17

Right to participate in drug court; immunity from liability

Sec. 17. (a) A person does not have a right to participate in a drug court under this chapter.

(b) The coordinator and members of the professional and administrative staff of the court who perform duties in good faith under this chapter are immune from civil liability for:

- (1) acts or omissions in providing services under this chapter; and
- (2) the reasonable exercise of discretion in determining

eligibility to participate in a drug court.
As added by P.L.168-2002, SEC.8.